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ABSTRACT

The current level of involvement of state education agencies (SEAs) with nonpublic schools in six Pacific and Northwest states is described in this report. Five aspects of this SEA involvement are examined briefly for each state: the statutory and regulatory bases for SEA involvement, the current scope of nonpublic education, the actual degree of state oversight exercised, problems affecting SEA involvement, the status of cooperative approaches and programs, and other related issues. The six states covered are Alaska, Hawaii, Idaho, Montana, Oregon, and Washington. The report concludes with an overview of emerging issues and trends: the effects of the increasing proliferation of marginal private schools, growing public sentiment favoring parental choice and control, and shifts in SEA emphasis away from an adversarial attitude concerning marginal private schools and toward cooperative resolution of problems and improvement of nonpublic educational efforts. (Author/PGD)

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STATE EDUCATION AGENCY INVOLVEMENT WITH NONPUBLIC SCHOOLS IN THE NORTHWEST/PACIFIC STATES

A Status Report

Prepared for the Chief State School Officers
of the States of Alaska, Hawaii, Idaho,
Oregon, Montana and Washington

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STATE EDUCATION AGENCY INVOLVEMENT WITH NONPUBLIC SCHOOLS IN THE NORTHWEST/PACIFIC STATES

Introduction

This report, prepared by the Center for State Studies, Northwest Regional Educational Laboratory, at the request of the region's Chief State School Officers, describes the current level of involvement of state education agencies (SEAs) with nonpublic schools in the Northwest/Pacific states.

There has been no attempt in this report to make any detailed policy analyses or to present an array of policy alternatives; rather, the report simply depicts the existing arrangements, the problems identified, and some encouraging developments which have been reported by the Chiefs and their staff members during the onsite visits.

The findings are summarized state-by-state, using the same topical subheadings for each state. Following these summaries, which are believed to be essentially factual, there is a brief summary of current problems and emerging trends.

Alaska

1. Statutory and regulatory bases for SEA involvement

The Alaska Department of Education has clear statutory authority to prescribe standards for nonpublic schools. This means that an application to establish a private school is required by the Department; that such schools are to make an annual report of enrollment by grade; that they must offer a program comparable to that offered by the public schools; and that their teachers must be certificated unless the school can demonstrate that their students score comparably to public school students on standardized tests.

2. Current scope of nonpublic education

The official reports show a 1980-1981 private school enrollment of 4,447 students (up from 1,878 in 1978). However, the figure includes reports from only 59 of the estimated 80-95 schools now believed to be operating in the state.

3. Actual degree of state oversight

The SEA in effect authorizes, but does not necessarily approve, nonpublic schools which choose to submit formal applications. SEA rejection of an application would appear to be possible.

Other public agencies (Environmental Department, Fire Marshal, Sanitarian) can exercise more stringent control than can the SEA under their general agency authority over matters of health, safety and welfare.

4. Problem areas

Because there is no satisfactory way even to locate all of the nonpublic schools, it is difficult or impractical to enforce existing law. Even nonpublic schools which have been formally authorized on the basis of an application submitted to the SEA, are difficult to monitor on a continuing basis.

5. Cooperative approaches/programs

Fortunately, the established schools enrolling the largest numbers of students present no real problems: they are eager to achieve and to maintain high standards. The more marginal schools--and even some of the obviously deficient ones--can be helped by patient but persistent efforts on the part of the SEA staff: visiting their schools, attending their meetings, sharing materials, offering inservice opportunities, and providing technical and consultative assistance when possible. (Or, in the memorable words of one Alaska SEA staff member: "smiling, singing, and pot-lucking!")

6. Other issues/problems

The Alaska Department of Education has attempted to extend its monitoring of nonpublic schools down to the preschool level, utilizing an "application for establishment" form very similar to that used for K-12. However, because of the rather vague legal basis for Department responsibility for preschools "whose primary purpose is education," the SEA would like to have legislation which would give the Department of Health and Social Services full responsibility for all preschools, both "child care" and "educational." Then, the Department of Education would be free of any enforcement responsibilities and could use an informal peer review process to encourage such schools to come up to the Department's "criteria for excellence."

Hawaii

The unique nature of Hawaii's unitary statewide school system makes it inappropriate to report Hawaii's private school issues in the same format which has been applied to the other states surveyed.

In Hawaii there is no problem of which segment of the authority over the operation of nonpublic education belongs to the state and which to the local authorities--all control is vested in the SEA. Nor is there any question of which kind of schools come under state jurisdiction--the Department formally licenses all private schools (Rule 44) and all private trade, vocational or technical schools (Rule 46). Furthermore, all private school teachers must be certificated by the state.

Licensure as a means of control enables the state to skirt the issue of quality levels and degrees of approval, obviating one of the touchy problems which other states may face.

The existence of "bootleg" (i.e., unlicensed) schools does present some problem, but the Hawaii Department does not have to rely on the uncertain, hard-to-enforce compulsory attendance laws. It can, and does, bring action against parents through the child neglect/abuse statutes, a much more clear-cut and politically acceptable route.

Idaho

1. Statutory and regulatory bases for SEA involvement

At the present time the Idaho Department of Education must rely solely on the compulsory attendance law in order to exercise even minimal oversight of nonpublic schools. A bill supported by the State Board of Education, now pending before the legislature, would require simple registration of all private elementary and secondary schools in the state, but there is a strong show of opposition to even this registration requirement.

2. Current scope of nonpublic education

In the absence of any state requirement that private schools be registered, it is difficult to arrive at accurate enrollment figures for nonpublic schools. Reports based on information submitted by LEA officials would indicate that approximately 5,000 (out of a total of 200,500) students are now in private schools, but a legislative survey puts that figure at nearer 7,200.

3. Actual degree of state oversight

With only the compulsory attendance law to rely on, the SEA itself has little authority. The LEAs are charged with determining the adequacy of home instruction programs and many of the local districts take this responsibility very seriously. However, parents who are found to be in violation of the home instruction program requirements are only rarely brought before the courts.

Appropriate public agencies other than the SEA are responsible for compliance with fire safety regulation and with other health and welfare concerns, but enforcement is difficult because of the problem of even locating many of the smaller schools.

4. Problem areas

The absence of any requirement for private school registration, coupled with strong--often vehement--opposition on the part of a substantial segment of the public to even a modicum of governmental control, makes it difficult to get a handle on the nonpublic education sector. Lack of any enthusiasm on the part of most prosecuting authorities to bring parents to court further complicates the problem.

5. Cooperative approaches/programs

As is true in most of the other states surveyed, the established nonpublic schools are eager to have first-rate programs worthy of accreditation. The Idaho SEA has consciously attempted to reach out to the nonpublic schools, offering not only the appropriate share of available federal funding, but also notifying the private schools of inservice opportunities which are available through the Department. The SEA has also produced an especially helpful document to inform those who wish to establish a private school what steps they ought to take to have a good program.

6. Other issues/problems

There is apparently at least discernible sentiment in the legislature to get some kind of a handle on the private school problem. In addition to the Board-sponsored bill to require simple private school registration, two other bills requiring adherence to a curriculum and school year comparable to that of the public school are in the legislative hopper.

An attempt is also being made to track down the fugitive private schools through cross-checking with their incorporation under the

requirements of the State Corporation Commission. Many of these schools are incorporating for tax-related purposes, and although such incorporation removes them from any SEA or LEA oversight, at least their existence can be verified.

Montana

1. Statutory and regulatory bases for SEA involvement

Except for the basic compulsory attendance law, there is no specific statutory authority which would involve the SEA with oversight of nonpublic schools. The State Board of Education has determined that the responsibility for any overseeing of private schools lies with the county superintendents, who "may request a program review" from the SEA if a questionable school comes to their attention.

2. Current scope of nonpublic education

The number, nature and location of many private schools is unknown, but using available enrollment figures from the larger, well-established nonpublic schools, the Department estimates private school enrollment at 6,000 out of a total statewide enrollment of 155,000.

3. Actual degree of state oversight

The only formal Department of Education oversight of private schools occurs in case of the voluntary request for state accreditation by a nonpublic secondary school. Other public agencies, such as units of the Department of Administration, may conduct inspections for health, safety and welfare. The actual extent of such inspections, given the lack of any state registration or even identification of nonpublic schools, is difficult to ascertain.

4. Problem areas

As a matter of philosophy and practice, state education authorities have steered clear of any attempt to register or evaluate nonpublic schools. The State Board of Education has considered requiring that private school teachers be certificated, but has for the present backed off from that position.

5. Cooperative approaches/programs

Except for a program of sharing federal funds, as required and appropriate, with nonpublic schools, and participating in accreditation visits to the larger established private secondary schools, the SEA has little official contact with the nonpublic education sector.

6. Other issues/problems

Department leadership and staff would like to encourage a stronger voluntary relationship between the public and the private education sectors, but the current position of the Board is that meeting the requirement of the compulsory attendance law is sufficient. (That is, if the child is "in school," the state responsibility has been met.)

Oregon

1. Statutory and regulatory bases for SEA involvement

The Oregon Department of Education appears to have extensive statutory and regulatory authority to "register" private elementary and secondary schools which meet very specific standards, but this authority is clouded by another statutory provision that a school "may" be registered with the Department. Thus, the extensive criteria and standards are ultimately of marginal significance unless the nonpublic school chooses to seek registration. If a school chooses to register, it must have a curriculum consistent with the "goals of modern education," provide instructional time equivalent to that found in the public schools and have qualified but not necessarily certificated teachers.

2. Current scope of nonpublic education

The total number of students in nonpublic schools is unknown at present. However, it is estimated that 50-70 percent of the nonpublic enrollment is in schools registered with the Department.

3. Actual degree of state oversight

Private schools are "registered" only. Although they are encouraged to go through a self-evaluation process and may request an onsite evaluation team visit, they apparently cannot technically become "standard" schools, the mark of approval given by the Department to public schools.

Public agencies other than the Department of Education, especially the county health officials, have authority over health, sanitation and safety matters.

4. Problem areas

Because of the statutory wording which provides only that private schools may register, Departmental monitoring is benign. Attendance at

"private schools" meets the requirements of the compulsory attendance law, but since there is no legal definition of a private school, prosecuting authorities are reluctant to move against parents who send their children to questionable schools. "Home-study" programs are approved at the LEA, not the SEA level.

5. Cooperative approaches/programs

The more firmly established and generally respected nonpublic schools pose little problem. Many of these belong to the Oregon Federation of Independent Schools, an organization which has itself initiated efforts to work more closely with the Department and its Private School Advisory Committee, a seven-member body established by law. The Federation hopes to encourage nonpublic schools to meet or exceed the requirements for Oregon "standard" schools, relying heavily on a peer review approach.

6. Other issues/problems

Further action by the Office of the Superintendent of Public Instruction (OSPI) on the private school issue apparently will depend on the outcome of current legislative proposals.

Washington

1. Statutory and regulatory bases for SEA involvement

The OSPI has clear statutory and regulatory authority to approve all private schools. These schools must offer a curriculum comparable to that required in the public schools, for the same number of hours and days, using certificated teachers (with minor exceptions allowed). Students attending such approved schools meet the legal compulsory attendance requirements.

2. Current scope of nonpublic education

Precise enrollment figures for nonpublic schools are not available, since it is estimated that there are "perhaps several hundred" small private schools of which OSPI has no record. However, it is believed that 11 to 12 percent of the total school enrollment is in private schools (8 or 9 percent in "approved" schools).

3. Actual degree of state oversight

Nonpublic schools are formally "approved" by the OSPI if they file application and meet the prescribed standards. Secondary schools may seek and obtain state accreditation, as well as regional association accreditation.

In addition to OSPI approval, all nonpublic schools are required to have the approval of appropriate fire and health officials.

4. Problem areas

Although the requirements for comparability of the educational programs of public and nonpublic schools are spelled out in great detail, a large number of (mostly small) private schools do not apply for approval. There is no practicable mechanism for bringing them under the purview of the OSPI, and no strong motivation for so doing, since legal prosecution of illicit private schools is virtually unknown.

5. Cooperative approaches/programs

The OSPI has made it very clear to nonpublic schools that there is a desire on the part of the agency to work cooperatively with the private sector. There is a Private School Advisory Committee and an Office of Private Schools within the OSPI, and the application materials provided to the nonpublic schools stress the ready availability of professional assistance from OSPI to the private schools.

6. Other issues/problems

At least two pieces of proposed legislation (H.B. #796; S.B. #4613) are now being considered. One would apparently remove the requirement for OSPI approval of schools supported by parents "whose truly held religious beliefs would be jeopardized through compliance with any state control regarding the education of their children." The other would exempt from the compulsory attendance law any child whose parents certify that attendance of their children at any public or private school is "contrary to the(ir) religious or personal beliefs. . ."

Emerging Issues and Trends

There seems to be almost complete agreement among those interviewed that the problems encountered with maintaining a defensible balance between the preservation of the independence of the nonpublic schools and the state's obligation to assure that every child has an opportunity for a decent educational experience will become more acute as marginal private schools proliferate at an increasing rate.

The problems are essentially philosophical and political, rather than legal. All or nearly all of the SEAs have sufficient legal authority, under state laws and state board of education rules, to enforce the compulsory attendance laws in such a way that children are not only attending school, but are attending a real school. But there is a growing popular (and legislative) sentiment to allow parents to make "sincere" choices regarding alternative types of schooling and an increasing pressure to diminish governmental influence in a wide range of societal matters, including education.

Therefore, given the current and growing strength of these popular views--shared in many instances by SEA officials, both board members and professional staff--most SEAs seem eager to help marginal nonpublic schools improve their programs and services, rather than seeking to lower the boom on the offenders.

Problems nevertheless persist. Should private schools be required, as a minimum, to register with the SEA so that they and their students can at least be located and identified? Should teachers in nonpublic schools be required to meet any standards of preparation and competency whatsoever, even if they are not required to be certificated according to existing legal and professional standards? Should enforcement of minimum health, safety and other general welfare standards be assigned

exclusively to other public agencies, relieving the SEA of the onus of being an "enforcer?" Should parental instruction in the home be permitted as a substitute for formal schooling, and, if so, should there be any criteria for the approval of the parental instruction program other than the self-avowed sincerity of the parental beliefs?

Notwithstanding the complexity of these very practical problems, most or all of the SEAs surveyed report that they are moving ahead to resolution of some of the issues on a cooperative rather than an adversarial basis.

Prominently mentioned among the ways SEAs are finding of building cooperative relations are these:

1. Encouraging among the private schools a wider use of self-initiated peer review techniques on a voluntary basis.

2. Establishing or strengthening specific private school units within the SEA to work with the nonpublic education sector.

3. Offering more technical assistance (e.g., onsite visits at the request of the private schools; information regarding current best practices in curriculum and instructional materials; opportunities to participate in professional development programs, etc.) to nonpublic schools.

4. Developing a low profile, patient, cooperative relationship--going out to the private schools and--in the memorable phrase of one of our knowledgeable SEA informants--"doing a lot of smiling, singing, and pot-lucking!"